

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04cr233

UNITED STATES OF AMERICA

vs.

STACEY JOAN BOGAN

)
)
)
)
)
)
)

ORDER

THIS MATTER is before the Court upon motion of the defendant, pro se, requesting that the Court alter its sentence in this case to make it concurrent with the sentence in Case No. 3:05cr311. (Doc. No. 26).

An amended judgment was entered on July 17, 2006. (Doc. No. 25). The instant motion was submitted on or about January, 16, 2007.¹ Rule 35 of the Federal Rules of Criminal Procedure allows the Court to correct a sentence within seven days of sentencing for clear error or to reduce a sentence upon the government's motion based on substantial assistance within one year of sentencing. The Court finds that neither circumstance is applicable in this case.

Even if the Court had jurisdiction, having considered the defendant's arguments and the entire record in this case, it would not exercise its discretion to alter the sentence. The defendant had pled guilty and was awaiting sentencing in the instant case when she committed the offense in Case No. 3:05cr311. (Doc No. 9: Notice of New Law Violation). Accordingly, the offenses were

¹The preprinted form used by the defendant bears a date of January 16, 2006. However, the correct year must have been 2007 because the defendant recites the sentences that were announced at her sentencing hearing on March 29, 2006.

not related or part of a common scheme or plan. USSG §4A1.2, comment. (n.3). The guidelines call for consecutive sentences when a person commits a new offense while awaiting imposition of a sentence on an earlier offense. USSG §5G1.3(a). The defendant has not presented any information to disturb the Court's previous finding that consecutive sentences in the two cases satisfy the goals articulated in 18 U.S.C. 3553(a).

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, and to the United States Attorney.

Signed: May 7, 2007

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

